



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/594,137

10/18/2006

Markus Arnold

05579-00355-US

6311

23416

7590

11/18/2008

CONNOLLY BOVE LODGE & HUTZ, LLP

P O BOX 2207

WILMINGTON, DE 19899

EXAMINER

KLEMANSKI, HELENE G

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

11/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/594,137

Applicant(s)

ARNOLD ET AL.

Examiner

Helene Klemanski

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. None of the claims have been amended, none of the claims have been deleted and no new claims have been added. Hence, claims 1-18 are pending in the application.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: no literal antecedent basis is seen in the specification for the phrase "comprising one or more disperse dyes of the formula (I) in amounts of 0.01% by weight to 40% by weight, based on the total of the ink" in claims 7, 11, 13, 15 and 17.

The examiner suggests the incorporation of this phrase into the specification or the claims amended accordingly.

Claim Objections

3. Claims 8 and 10 are objected to because of the following informalities: in claim 8, line 1, the phrase "The aqueous s" should be replaced with the phrase "The aqueous" and in claim 10, line 1, the term "ring" should be deleted and in line 2, the term "ring" should be inserted between the terms "wherein" and "D". Appropriate correction is required.

It is noted that the above objections to the specification and the claims were present in the previous Office Action dated May 21, 2008 but were not corrected by applicants and are therefore repeated.

Claim Rejections - 35 USC § 103

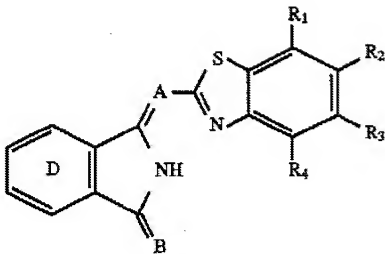
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorenz et al. (US 5,646,290) in view of Koike et al. (US 4,689,078).

Lorenz et al. teach a thiazolylisoindolenine dyestuff of the formula



wherein A represents N or a cyanomethylene radical; B represents a radical of the formula C(CN)COOR₅ or N-R₆; R₁ to R₄ independently of one another are H, halogen, a substituted or unsubstituted C₁₋₈ alkyl or C₅₋₆ cycloalkyl uninterrupted or oxygen-interrupted C₁₋₁₀ alkoxy, substituted or unsubstituted C₆₋₁₀ aryloxy, CF₃ or substituted or unsubstituted dialkylamine, or any two adjacent R₁ to R₄ radicals together with the aromatic ring C atoms form a fused benzene or naphthalene ring which may be substituted; R₅ represents a substituted or unsubstituted, saturated or unsaturated C₁₋₂₀ alkyl, C₆₋₁₀ aryl- C₁₋₁₀ alkyl or hetarylalkyl radical, the alkyl radical being uninterrupted or oxygen-interrupted; R₆ represents a substituted or unsubstituted C₅₋₆ cycloalkyl, C₅₋₆ cycloalkyl- C₁₋₈ alkyl, C₆₋₁₀ aryl- C₁₋₁₀ alkyl or C₁₋₂₀ alkyl, the latter being uninterrupted or oxygen-interrupted and ring D is unsubstituted or carries at least one substituent which together with a further substituent in the ortho position and the ring carbon atoms may form a fused benzene ring or naphthalene ring. The above dyes are useful for dyeing or printing textile material from an aqueous suspension containing a fine dispersion of the dye. The particle sizes of the dyes are between 0.1 and 5 μm . The aqueous

suspension may further contain 0.1-1.5% by weight of wetting agents such as C₆₋₁₀ alkyl phosphates (i.e. organic solvent). See col. 1, lines 15-53, col. 2, lines 48-62, col. 3, lines 5-20 and lines 35-51, col. 3, line 65 – col. 4, line 20, col. 10, lines 45-63, col. 11, lines 4-13, col. 12, lines 20-50, col. 13, lines 15-57, the examples and claims 1-5. Lorenz et al. fails to specifically disclose the use of the aqueous suspension in an inkjet process as claimed by applicants.

Koike et al teach a recording liquid for inkjet printing onto a textile material comprising a disperse dye and a liquid medium. The liquid medium comprises water and a water-soluble organic solvent. The particle size of the disperse dye is maintained at 30 µm or less to prevent clogging of the nozzle in the inkjet printer. See col. 1, lines 54-67, col. 2, lines 36-49, col. 3, lines 42-63, col. 4, lines 48-53, col. 5, lines 1-5, col. 6, lines 36-41, the examples and claims 1-6 and 9-13.

Therefore, in view of the combined teachings of Lorenz et al. and Koike et al., it would have been obvious to one having ordinary skill in the art to have used the aqueous suspension of Lorenz et al. in an inkjet process for printing on textile materials since the Koike et al. reference discloses that inkjet printing inks have a particle size of 30 µm or less to prevent clogging of the nozzle in the inkjet printer and the aqueous suspension of Lorenz et al. has a particle size of between 0.1 and 5 µm.

Response to Arguments

7. Applicant's arguments filed September 17, 2008 have been fully considered but they are not persuasive.

Applicants argue that it would not have been obvious to one having ordinary skill in the art to use the aqueous suspension of Lorenz et al. in an inkjet process for printing on textile materials of the Koike et al. reference since the particle size of an aqueous dyestuff suspension is not a sufficient indicator for its usefulness as an ink for an inkjet printing process for printing on textile materials and have filed a 132 Declaration to that effect. Applicants Declaration has been considered however, it is the examiner's position that the Declaration is based upon opinion and not fact since the pH of the aqueous suspension of Lorenz is actually lower (in the range of 4.5 to 5.5; see Use Example 1) than the pH of the aqueous ink of the Koike et al reference (in the range of 7.4 to 8.3; see examples 1 and 2). Furthermore, the Lorenz reference specifically discloses that the aqueous suspension, especially those with a mixture of dyes has high stability (see col. 11, lines 16-20). Therefore, it is the examiner's position that applicants have not provided any convincing evidence that one of ordinary skill in the art would not use the aqueous suspension of the Lorenz reference in the ink jet process of the Koike et al. reference and the 103(a) rejection is maintained. Accordingly, this action is final.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Klemanski whose telephone number is (571) 272-1370. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Helene Klemanski/
Primary Examiner, Art Unit 1793

Application/Control Number: 10/594,137
Art Unit: 1793

Page 8